

**UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF NEW YORK**

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LAWRENCE ATKINS,

Plaintiff,

5:25-cv-322 (BKS/DJS)

v.

NATHANIEL BARNES, MICHAEL  
BUFANO and EDWARD PICKARD,

Defendants.

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**Appearances:**

*Plaintiff pro se:*

Lawrence Atkins  
Auburn, NY 13021

**Hon. Brenda K. Sannes, Chief United States District Judge:**

**MEMORANDUM-DECISION AND ORDER**

Plaintiff Lawrence Atkins filed this action pro se asserting claims under 42 U.S.C. § 1983 against Defendants Nathaniel Barnes, Michael Bufano, and Edward Pickard, members of the Auburn Police Department. (Dkt. No. 1). Plaintiff alleges Defendants subjected him to retaliation, excessive force, unreasonable search and seizure, and cruel and unusual punishment, and violated his right to due process, in violation of Plaintiff's First, Fourth, Fifth, and Eighth Amendment rights. (*Id.*). This matter was referred to United States Magistrate Judge Daniel J. Stewart who, on April 8, 2025, issued a Report-Recommendation conducting an initial review of the Complaint pursuant to 28 U.S.C. § 1915(e)(2)(B) and 28 U.S.C. § 1915A(b). (Dkt. No. 5). Magistrate Judge Stewart recommended that Plaintiff's excessive force claim be permitted to proceed and that Defendants be directed to respond to it but that Plaintiff's remaining claims be dismissed with leave to amend. (*Id.* at 5–8). Magistrate Judge Stewart advised Plaintiff that

under 28 U.S.C. § 636(b)(1), he had “fourteen (14) days within which to file written objections to the foregoing report” and that “failure to object . . . within fourteen days will preclude appellate review.” (*Id.* at 8). Plaintiff did not file any objections.

As no objections to the Report-Recommendation have been filed, and the time for filing objections has expired, the Court reviews the Report-Recommendation for clear error. *See Petersen v. Astrue*, 2 F. Supp. 3d 223, 228–29 (N.D.N.Y. 2012); Fed. R. Civ. P. 72(b) advisory committee’s note to 1983 amendment. Having reviewed the Report-Recommendation for clear error and found none, the Court adopts the Report-Recommendation in its entirety.

For these reasons, it is hereby

**ORDERED** that Magistrate Judge Stewart’s Report-Recommendation (Dkt. No. 5) is **ADOPTED**; and it is further

**ORDERED** that Plaintiff’s excessive force claim may proceed and that Defendants are directed to respond to it; and it is further

**ORDERED** that Plaintiff’s remaining claims are **DISMISSED without prejudice** for failure to state a claim upon which relief may be granted and **with leave to amend**; and it is further

**ORDERED** that Plaintiff is granted leave to file an amended complaint within thirty (30) days of the date of this Order. Any amended complaint must be a complete pleading which will replace the current complaint in total; and it is further

**ORDERED** that if Plaintiff files an amended complaint within thirty (30) days of the date of this Order, the amended complaint shall be referred to Magistrate Judge Stewart for review; and it is further


**ORDERED** that if no amended complaint is filed within thirty (30) days of the date of this Order, the Clerk shall issue a summons and forward it with copies of the complaint and a packet containing General Order 25, which sets forth this district's Civil Case Management Plan, to the United States Marshal for service upon Defendants Barnes, Bufano and Pickard. Defendants must file a formal response to Plaintiff's complaint (Dkt. No. 1) as provided for in the Federal Rules of Civil Procedure subsequent to service of process; and it is further

**ORDERED** that all pleadings, motions, and other documents relating to this action must bear the case number assigned to this action and be filed with the Clerk of the United States District Court, Northern District of New York, 7th Floor, Federal Building, 100 S. Clinton St., Syracuse, New York 13261-7367. Plaintiff must comply with all requests by the Clerk's Office for any documents that are necessary to maintain this action. All parties must comply with rule 7.1 of the Local Rules of Practice for the Northern District of New York in filing motions. Motions will be decided on submitted papers, without oral argument, unless otherwise ordered by this Court. Plaintiff is also required to promptly notify the Clerk's Office and all parties or their counsel, in writing, of any change in his address; his failure to do so may result in the dismissal of this action; and it is further

**ORDERED** that the Clerk serve a copy of this Order on Plaintiff in accordance with the Local Rules.

**IT IS SO ORDERED.**

Dated: May 2, 2025  
Syracuse, New York

  
Brenda K. Sannes  
Chief U.S. District Judge